

REMARKS

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

In the present Response, no claims has been canceled and claims 44-49 have been withdrawn from consideration. No claims have been added. Independent claims 26, 44 and 47 have been amended. As a result, claims 26-43 are currently pending and under consideration. No new subject matter has been added.

In item 1 of the Office Action, the Applicant is required to elect one of the following invention groups:

Group I: Claims 26-43, drawn to an ignition system for a smoking machine.

Group II: Claims 44-46, drawn to an ignition system for a smoking machine.

Group III: Claims 47-49, drawn to a smoking machine.

In response to the restriction requirement, the Applicant hereby elects, with traverse, the Group I invention (claims 26-43, drawn to an ignition system for a smoking machine) for prosecution. Applicant respectfully requests that the Examiner reconsider and ultimately remove the restriction requirement for the following reasons and arguments.

Item 2 of the Office Action states that, “the inventions listed a Groups I, II and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features...”. This finding is based on a reference to Sakuma et al. (EP 0880020 A1). The Office Action characterizes Sakuma as teaching “a control unit in communication with the sensor that adjusts the operation of the heat source depending on the position detected by the sensor.”

As amended herein, independent claims 26, 44 and 47 each recite “wherein the control unit is adapted to adjust the amount of heat applied to the smoking article such as to enable successful ignition of said end by said heat source.” Applicant respectfully submits that Sakuma does not teach or disclose the above-recited claim element.

Sakuma discloses an ignition system for a smoking machine in which a laser beam is used to detect the position of the end of a cigarette. The position of the heater can then be adjusted depending on the detected position of the cigarette. Sakuma does not disclose a control unit which is adapted to adjust automatically a parameter of the operation of the heat source. More specifically, Sakuma fails to disclose or suggest a control unit which is adapted to adjust

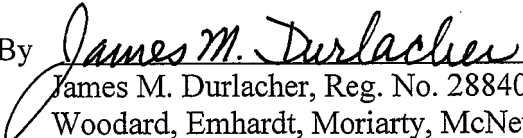
the amount of heat applied to the smoking article. In contrast, Sakuma teaches that the temperature of the heat source should be kept constant. Col. 12, ll. 16-19.

Therefore, the claimed features of a control unit that is adapted to adjust automatically a parameter of the operation of the heat source and to adjust the amount of heat applied to the smoking article are special technical features which are not disclosed in the prior art of record. Therefore, independent claims 26, 44 and 47 relate to the same invention.

Further, it is respectfully submitted that all of the claims could be examined together without imposing an undue burden, especially since the claims have already been searched and examined in the February 26, 2009 Office Action. As stated in § 803 of the Manual of Patent Examining Procedure, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits even though it includes claims to distinct or independent inventions.” Under this standard, it is believed the search of above-discussed invention groups jointly would not impose a serious burden, given that the subject matter has already been searched and examined.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance, and the Examiner is requested to pass the case to issue. If the Examiner should have any comments or suggestions to help speed the prosecution of this application, the Examiner is requested to contact the applicants' undersigned representative by telephone.

Respectfully submitted,

By 
James M. Durlacher, Reg. No. 28840
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
Telephone (317) 634-3456 Fax (317) 637-7561
Email: jdurlacher@uspatent.com